

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA
AT CHARLESTON

UNITED STATES OF AMERICA

v.

CRIMINAL NO. 2:22-00091

LESLIE RUSSELL BURNEY

MEMORANDUM OPINION AND ORDER

Pending before the court is defendant's motion for a continuance of trial and all related deadlines. (ECF No. 19.) In support of defendant's motion, counsel for defendant explains that there are pending discovery requests to the government. Counsel anticipates that once the responses are received, the current trial schedule will not provide sufficient time to review them and take additional action to determine whether to file any pretrial motions.

Because failure to grant the requested continuance would likely result in a miscarriage of justice, the court finds that the ends of justice outweigh the interest of the defendant and the public in a speedy trial, see 18 U.S.C. § 3161(h)(7)(A), and **GRANTS** defendant's motion to continue. In deciding to grant defendant's motion, the court considered the factors outlined in 18 U.S.C. § 3161(h)(7)(B) and finds that denying the motion "would deny counsel for the defendant . . . the reasonable time necessary for effective preparation, taking into account the exercise of due diligence." Id. § 3161(h)(7)(B)(iv).


Accordingly, the court **ORDERS** as follows:

1. The deadline for the filing of pretrial motions is continued to **September 7, 2022;**
2. The Pretrial Motions Hearing is continued to **September 14, 2022, at 1:30 p.m.** in Charleston;
3. Jury Instructions and Proposed Voir Dire are due by **October 4, 2022;**
4. Trial of this action is continued to **October 11, 2022, at 9:30 a.m.** in Charleston; and
5. Pursuant to 18 U.S.C. § 3161(h)(7)(A), the time from the filing of the motion until the trial is excludable for purposes of the Speedy Trial Act.

The Clerk is directed to send a copy of this Memorandum Opinion and Order to all counsel of record, to the United States Marshal for the Southern District of West Virginia, and to the Probation Office of this court.

IT IS SO ORDERED this 28th day of July, 2022.

ENTER:

A handwritten signature in black ink, appearing to read "David A. Faber", is written over a horizontal line.

David A. Faber

Senior United States District Judge